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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,873	06/14/2001	Kulvir S. Bhogal	AUS920010390US1	8232

7590 01/24/2005
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EXAMINER

ZEWDU, MELESS NMN

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/881,873	Applicant(s) BHOGAL ET AL.	
	Examiner Meless N Zewdu	Art Unit 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on 9/17/2004.
2. Claims 1-31 are pending in this action.
3. This action is final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7-9, 12-18, 22-24 and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. (Lewis) (US 5,684,861) in view of Westerlage et al. (Westerlage) (US 6,141,404).

In regard to Claim 1, Lewis discloses in his method a tracking communications usage time comprising: counting time increments in response to a call; determining a call count based on time increments (Abstract)(C3, L. 12-29)(C5, L. 55-67)(C6, L.1-19). But, Lewis does not explicitly teach about modifying the/a call count based on calling plan parameters, as claimed and argued by applicant. However, in a related field of endeavor, Westerlage teaches about call transactions (data or voice) wherein the billable communication time may reflect the actual communication time or may be a rounded, truncated, or otherwise

modified value. For example, communication facilities or providers may desire to bill usage in full minute or fractional minute increments (see col. 11, lines 4-18). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lewis' reference with the teaching of Westerlage for the advantage of modifying a call time to satisfy billing constraints and desires (see col. 11, lines 13-14).

In regard to claim 2: the method further comprising:

adding the modified call count; and determining an accumulated call count reads on '404 (see col. 11, lines 4-18). According to the reference, the call time is modified as desired.

In regard to claim 3: the method further comprising:

subtracting the modified call count from a time ration; and determining a remaining call time '861 (col. 13, lines 7-18; col. 5, line 60-col. 6, line 19).

In regard to claim 7: the method wherein modifying the call count comprises: discounting a nighttime call reads on '861(see col. 1, lines 16-24; col. 5, lines 53-col. 6, line 19). Time of day includes night.

In regard to claim 8: the method wherein modifying the call count to comprises discounting a weekend call (Abstract; col. 5, line 53-col. 6, line 19; col. 13, lines 7-17).

In regard to claim 9: Lewis discloses in his system the method of providing a special usage parameter; calculating a special call count based on the special usage parameter and the modified call count (Abstract)(C3, L.17-29; col. 5, line 53-col. 6, line 19)(C6, L.22-26)(C13, L.11-17).

In regard to Claims 12-15, Lewis discloses in his system a method wherein the special usage parameters comprise a nighttime usage parameter, a weekend usage parameter, a peak usage parameter, and an off-peak usage parameter respectively. Also, Lewis discloses, the special call counts comprise a nighttime usage count, a weekend usage count, a peak usage count, and an off-peak usage count respectively (Abstract)(C2, L.48-53)(C6, L.1-19)(C10, L.12-14)(C13, L.11-17).

In regard to Claim 16, Lewis discloses a computer (or a microprocessor) usable medium including a program for tracking communications usage time comprising: computer readable program code for counting time increments in response to a call; computer readable program code for determining a call count based on time increments (Abstract)(C3, L. 12-29)(col. 5, line 53-col. 6, line 19)(C6, L.1-19). But, Lewis does not explicitly teach about a computer readable program code for modifying the/a call count based on calling plan parameters, as claimed and argued by applicant. However, in a related field of endeavor, Westerlage teaches about call transactions (data or voice) wherein the billable communication time may reflect the actual communication time or may be a rounded, truncated, or otherwise modified value. For example, communication facilities or providers may desire to bill usage in full minute or fractional minute increments (see col. 11, lines 4-18). Furthermore, Westerlage discloses that the call process is controlled by a coordination of a processor, a memory, programs and instructions (see col. 5, lines 43-59). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lewis' reference with the teaching of Westerlage for the advantage of modifying a call time to satisfy billing constraints and desires (see col. 11, lines 13-14).

In regard to Claims 17 and 18, the rejection is based on the same reason as set forth in Claims 2 and 3.

In regard to Claims 22 and 23, the rejection is based on the same reason as set forth in Claims 7 and 8.

In regard to Claim 24, the rejection is based on the same reason as set forth in Claim 9.

In regard to Claims 27-30, the rejection is based on the same reason as set forth in Claims 12-15.

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In regard to claim 31: a communication usage time tracking system comprising:

means for counting time increments in response to a call reads on '861 (abstract; col. 3, lines 13-29; col. 3, line 60-col. 4, line 6; col. 5, line 53-col. 6, line 19).

means for determining a call count based on time increments reads on '861 (abstract; col. 3, lines 13-29; col. 3, line 60-col. 4, line 6; col. 5, line 53-col. 6, line 19). But, Lewis does not explicitly teach about a means for modifying the/a call count based on calling plan parameters, as claimed and argued by applicant. However, in a related field of endeavor, Westerlage teaches about call transactions (data or voice) wherein the billable communication time may reflect the actual communication time or may be a rounded, truncated, or otherwise modified value. For example, communication facilities or providers may desire to bill usage in full minute or fractional minute increments (see col. 11, lines 4-18). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lewis' reference with the teaching of Westerlage for the advantage of modifying a call time to satisfy billing constraints and desires (see col. 11, lines 13-14).

Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (Patent #5, 684, 861) in view of Abe et al. (Patent #5, 966,509).

In regard to Claims 4 and 19, Lewis discloses a method and apparatus of tracking communications usage time that comprises modifying call counts. However, Lewis does not disclose call count rounding. Abe teaches in his Network Management Device a call count rounding method (C26, L.19-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to follow Abe on Lewis in order to provide a better call count management.

Claims 5 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (Patent #5, 684, 861) in view of Kraushaar et al. (Patent #4, 200,771).

In regard to Claims 5 and 20, Lewis discloses a method and apparatus of tracking communications usage time that comprises modifying call counts.

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However, Lewis does not disclose a method for subtracting initial connection time from call counts. Kraushaar teaches in his system a device and method that would subtract such time from call counts (C5, I.12-28)). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to follow Kraushaar on Lewis in order to provide more accuracy in counting calls.

Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (Patent #5, 684, 861) in view of O'Donovan (Patent #5, 960,070).

In regard to Claims 6 and 21, Lewis discloses a method and apparatus of tracking communications usage time that comprises modifying call counts. However, Lewis does not disclose a method for discounting incoming calls. O'Donovan teaches in one embodiment of his system a billing method that would not charge for incoming calls (C2, L.57-60)(C3, L.2-3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to follow O'Donovan on Lewis in order to provide a better billing method.

Claims 10, 11, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (Patent #5, 684, 861) in view of Altschul et al. (Patent #5, 875,393).

In regard to Claims 10, 11, 25 and 26, Lewis discloses a method and apparatus of tracking communications usage time that comprises of special parameters. Lewis does not disclose that some special parameters would comprise of a long distance usage count and a local distance usage time. Altschul teaches the special call counts to comprise long distance and local distance (C5, L.29-35, L.66-67)(C6, L.1-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to follow Altschul on Lewis in order for the method to further accommodate different call counts and arrangements.

Response to Arguments

Applicant's arguments filed 9/17/04 have been fully considered but they are not persuasive. Applicant's arguments and examiner's corresponding responses are provided as follows.

Argument I: with regard to claims 1-3, 7-9, 12-18, 22-24 and 27-31, applicant argues by saying Lewis in view of Westerlage does not teach or suggest, at a minimum, "modifying the call count based on calling plan parameters," as claimed in claim 1, "computer readable program code for modifying the call count based on calling plan parameters, as claimed in claim 16 and "means for modifying the call count based on calling plan parameters" as claimed in claim 31, this §103 (a) rejection must fall.

Response I (a): examiner respectfully disagrees with the argument. First Lewis provides call usage monitoring for a cellular telephone with a programmable control means that tracks the duration and time of day associated with the telephone call (see col. 3, lines 13-29). Furthermore, examiner considers the customer billing package/calling plan as a calling plan (see col. 3, lines 19-24). Still furthermore, Lewis "determining the current total cost for the total time used in the billing period based upon the first time period at the first billing rate, and the second time period at the second billing rate, and the total connection time at the connection rate (see col. 18, lines 31-67).

Response I (b): as mentioned in the rejections of the claims above, "modifying the call count" is, what is not explicitly taught by Lewis. This feature is provided in Westerlage.

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In Westerlage, it is taught that a fractional call count/duration is truncated/rounded into a whole number. This in effect means that a call count or duration is modified.

Argument II: with regard to the above mentioned claims, applicant argues by saying Westerlage only does not teach or suggest modifying the call count based on calling plan parameters,

Response II: examiner respectfully disagrees. Rounding a fractional call count is modification, because the original call count is not the same as it was. Furthermore, when these two related references are combined, Westerlages truncating device/processor can be adapted to truncate/round off or modify other call times.

Argument III: with regard to claims 2 and 17, applicant argues by saying Westerlage cannot teach elements of claims 2 or 17, wherein the modified call count is added and an accumulated call count is determined.

Response III: examiner again respectfully disagrees. Lewis teaches about a combining two total times (based on two billing periods based on two total times used) (see claim 37). When this is modified by the teaching of Westerlage, one can have a sum total of time composed of two different sub sums whose time count could have been separately modified.

Argument IV: with regard to claims 3 and 18, applicant further argues by saying either Lewis nor Westerlage teaches subtracting the modified call count from a time ration and determining a remaining call time.

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Response IV: Lewis teaches about time duration and periods (see summary; claim 37).

Time duration or period used for calculating bills can only be acquired by subtracting a start time from a finishing time. Hence, the argument is not persuasive.

As per claim V: applicant further argues by saying the references do not teach or suggest a special usage parameter and a special call count.

Response V: examiner disagrees with the argument. Special can be anything. Hence, Lewis' free of charge call (see col. 14, lines 44-50) or peak/off-peak hour call packages (see col. 13, lines 7-17) can be considered as special usage parameters.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

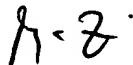
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N Zewdu whose telephone number is (703) 306-5418. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703) 308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Meless Zewdu



Examiner



WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

13 January 2005.